

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LA'RON HUDSON,

Plaintiff,

-against-

CITY OF NEW YORK et al.,

Defendants.

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HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se Plaintiff La'Ron Hudson alleges that on May 27, 2015, while incarcerated at the Vernon C. Bain Center on Rikers Island, he swallowed a coin in a prison meal, causing "sharp pain," "anal bleeding," and "mental fear of eating." Compl. § III. He sues the City of New York and an unnamed correction officer, pursuant to 42 U.S.C. § 1983. Defendants move to dismiss.

On June 23, 2016, Magistrate Judge Henry B. Pitman issued a Report & Recommendation ("R&R"), which recommends granting the motion because Hudson failed to exhaust administrative remedies and fails to state a Section 1983 claim. R&R at 14, 20. Hudson did not object within the prescribed two-week period after issuance of the R&R. 18 U.S.C. § 636(b)(1).

The Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* If no party objects, the Court may adopt the R&R "so long as there is no clear error on the fact of the record." *Feehan v. Feehan*, 2011 WL 497776, at *1 (S.D.N.Y. Feb. 10, 2011).

Accordingly, the Court reviews the R&R for clear error. Finding none, the Court adopts

USDC SDNY
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DATE FILED: 7-21-16

15 Civ. 4920 (PAC) (HBP)

OPINION & ORDER
ADOPTING REPORT &
RECOMMENDATION

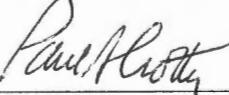
the R&R in full. An inmate must exhaust all administrative remedies before bringing a Section 1983 action. 42 U.S.C. § 1997e(a). Hudson's claim is covered by the Department of Corrections' grievance procedure and his failure to exhaust is not excused by his transfer to a different Rikers Island facility. *See Rose v. Masiey*, 2013 WL 4049512, at *6-7 (S.D.N.Y. July 16, 2013); *Johnson v. NYC Dept. of Corrections*, 2014 WL 2800753, at *6 (S.D.N.Y. June 16, 2014). The motion to dismiss is granted.

CONCLUSION

The Court ADOPTS the R&R and GRANTS Defendants' motion to dismiss. Pursuant to 28 U.S.C. § 1915(a)(3) any appeal from this order would not be taken in good faith. See *Coppedge v. United States*, 369 U.S. 438 (1962). The Clerk is directed to enter judgment for Defendants and terminate 15 cv 4920.

Dated: New York, New York
July [21], 2016

SO ORDERED



PAUL A. CROTTY
United States District Judge

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